1946 K Legal DEPARTMENT

File No. Leg. Bel 46

A BRANCH

P 30 1 1946

Subject: Land Acquisition Refugees — Belgian District

File No. Leg Belg/46

Std. Sectt. Slip 24-B

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No. 327

Office of the
Government Pleader, High Court,
Bombay, 25th January 1946.

From

S.G.Patwardhan, Esqr., B.A., B.S.C., L.L.M.
Government Pleader, High Court, Bombay.

To

The Collector of Belgaum.

Subject:- First Appeal No.937 of 1943
in suit No.7 of 1944.
(The Collector of Belgaum Vs.D.R.
Kulkarni) R.A.Q. Bel/45(Rects.)

Sir,

With reference to letter No.5103 dated the 11th July 1945, of the Remembrancer of Legal Affairs, Bombay, on the above subject, I have the honour to forward herewith a copy of cross-objections filed on behalf of the Respondent in the above appeal and to request you to let me know at an early date, the grounds on which they should be opposed.

Your obedient servant,

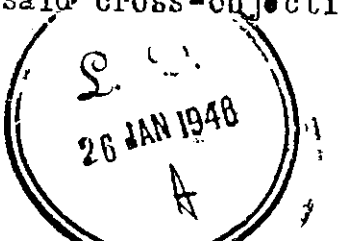
sd/- S.G. Patwardhan,

Government Pleader, High Court.

No 328 770

Bombay, 25-1-1946.

A/26-1-46 Copy with a copy of cross-objections forwarded with compliments to the Remembrancer of Legal Affairs, Bombay, with a request that instructions for opposing the said cross-objections if any, may be communicated to the undersigned.



Government Pleader, High Court.

11
~~28~~
26-4-46

Submitted with W/S (13·4) slip 'i' in Long Bel 145

Rms
26-4-46

5-5

3 3

IN HIS MAJESTY'S HIGH COURT OF JUDICATURE AT BOMBAY.

CROSS- OBJECTIONS.

in

First Appeal No.337 of 1945-

District.- BELGAUM.

The Collector of Belgaum. ..... Appelant.

Against

Dattatrya Ramchandra Kulkarni. ..... Respondent.

Claim: Rs.2764-5-4 for all purposes.

The Respondent above-named begs to file Cross-~~objectio~~ objections against the decree appealed from on the following among other grounds namely that :-

(1) The lower Court should have awarded compensation to the Respondent at the rate of Rs.2500/- per Acre of Bagyat land.

(2) It is an error to hold that there is only a differenc of Rs.200/- per acre in the price of Bagayat and Jirayat land

(3) The oral and documentary evidence on the ~~test-of-~~ record has not been properly appreciated and constructed.

(4) It should have been held that the test of income would support the claim of Respondent.

(5) The fact that the Respondent has lost the bulk of his Bagayat lands which were the main source of his livelihood has been ignored.

(6) The fact that the award gave Rs.800/- for the well has been lost sight of.

(7) The amount of Rs.50/- awarded as compensation in the award to Respondent in respect of S.No.1 for the loss of well-water from S.No.2 should have been retained and increased

(8) The lower Court has not properly appreciated the fact that the Panchnamas produced at the time of the award have not been duly proved and that the Panchas, though cited as witnesses, have not been examined.

(9) Interest should have been awarded from the date of possession at the rate of 6 per cent.

(10) It was wrong not to have allowed the Respondent his costs in the suit.

(11) The material provisions of the Land Acquisitions Act I of 1894 have not been properly followed.

(12) The decisions is against law, equity and the weight of evidence on the record.

B O M B A Y.
10th December 1945.

Advocate for the Respondent.

N.B. - The learned Assistant Judge awarded Rs.4034-3-0 in respect of 1/2 share in S.Nos. 2 and 4 at the rate of Rs.1500/- per acre. The Respondent claims compensation in respect of the said S.Nos.at the rate of Rs.2500/- per acre.Calculated on this basis, the additional compensation which the Respondent would be ~~responsible~~ entitled to get would amount to Rs.2689-5-4. He is also claiming Rs.25/- as additional compensation in respect of 1/2 share in the well as per the valuation in the award. He claims further Rs.50/- in respect of compensation for loss of well water sustained by his S.No.1. The claim in the Cross-Objections would, therefore, be Rs.2764-5-4. This includes the stationary 15 P.C.

Advocate for the Respondent.

No. 329

Office of the
Government Pleader, High Court,
Bombay, 25th January 1946.

From

S.G.Patwardhan, Esqr., B.A., B.Sc., LL.M.,
Government Pleader, High Court, Bombay.

To

The Collector of Belgaum.

Subject:- First Appeal No.330 of 1945
in Suit No. 10 of 1944.
(The Collector of Belgaum vs.
Ganpat Govind Ravlekar).

Sir,

With reference to the letter No.5103 dated the 11th July 1945, of the Remembrancer of Legal Affairs, Bombay, on the above subject, I have the honour to forward herewith a copy of cross-objections filed on behalf of the Respondent in the above appeal and to request you to let me know at an early date, the grounds on which they should be opposed.

Your obedient servant,

Sd. S.G.Patwardhan.

Government Pleader, High Court.

771 No. 330
A/26-1-46

Bombay, 25-1-1946.

Copy with a copy of cross-objections forwarded with compliments to the Remembrancer of Legal Affairs, Bombay, with a request that instructions for opposing the said cross-objections if any, may be communicated to the undersigned.

Government Pleader, High Court.

111
~~330~~
26-2-46

inwards with Ltr (P.4.) slip X in Lalgola Bel (45)

26-2-46

B.S.

IN HIS MAJESTY'S HIGH COURT OF JUDICATURE AT BOMBAY.

CRIME- OBJECTIONS.

First Appeal No.330 of 1945.

District :- BELGAUM.

The Collector of Belgaum. ..... Appelant.

Against

GANPAT GOVIND BAVDEKAR. ..... Respondent.

Claim : Rs.1357-2-4 for all purposes.

The Respondent above-named begs to file Cross-Objections against the decree appealed from on the following among other grounds namely that :-

(1) The lower Court should have awarded compensation to the Respondent at the rate of Rs.2500/- per acre of Bagayat land.

(2) It is an error to hold that there is only a difference of Rs.200/- per acre in the price of Bagayat and Jirayat lands.

(3) The oral and documentary evidence on the record has not been properly appreciated and constructed.

(4) It should have been held that the test of income would support the claim of the Respondent.

(5) The fact that the Respondent has lost the bulk of the his Bagayat lands which were the main source of his livelihood has been ignored.

(6) The fact that the award gave Rs.800/- for the well has been lost sight of.

(7) The lower Court has not properly appreciated the fact that the Panchnamas produced at the time of the award have not been duly proved, and that the Panchas though cited as witnesses, have not been examined.

(8) Interest should have been awarded from the date of possession at the rate of R 6 per cent.

(9) It was wrong not to have allowed the Respondent his costs in the suit,

(10) The material provisions of the Land Acquisition Act of 1894 have not been properly followed.

(11) The decision is against law, equity and the weight of evidence on the record.

B O M B A Y.
10th December 1945.

Advocate for the Respondent.

N.B. The learned Assistant Judge awarded Rs.2016-1-6 in respect of 1/4th share in S.Nos.2 and 4 at the rate of Rs.1500/- per acre. The Respondent claims compensation in respect of the ~~land~~ said S.Nos. at the rate of Rs.2500/- per acre calculated on this basis, the additional compensation which the Respondent would be entitled to get would amount to Rs.1344-10-4. He is also claiming Rs.12-8-0 as additional compensation in respect of 1/4th share in the well as per the valuation in the award. The claim in the Cross-Objections would, therefore, be Rs.1357-2-4. This includes the stationary 15 P.C.

Advocate for the Respondent.

No. 331

Office of the
Government Pleader, High Court,
Bombay, 25th January 1946.

S.G.Patwardhan, Esqr., B.A., B.Sc., LL.M.
Government Pleader, High Court, Bombay.

The Collector of Belgaum.

Subject:-First Appeal No.333 of 1945
in Suit No. 5 of 1944.
(The Collector of Belgaum vs. N.S. Kulkarni).

Sir,

With reference to letter No.5103 dated the 11th July 1945, of the Remembrancer of Legal Affairs, Bombay, on the above subject, I have the honour to forward herewith a copy of cross-objections filed on behalf of the Respondent in the above appeal and to request you to let me know at an early date, the grounds on which they should be opposed.

Your obedient servant,
Sd. S.G.Patwardhan.

Government Pleader, High Court.

No. 332-772

A/26-1-46 Bombay, 25-1-1946.

Copy with a copy of cross-objections forwarded with compliments to the Remembrancer of Legal Affairs, Bombay, with a request that instructions for opposing the said cross-objections if any, may be communicated to the undersigned.

L. D. 26 JAN 1948

Government Pleader, High Court.

~~772~~
~~332~~
267-46

Submitted with Ref. (1-4) above in Reg Bel (45)

BBMS
267-46

A.S.

3

IN HIS MAJESTY'S HIGH COURT OF JUDICATURE AT BOMBAY.

CROSS OBJECTIONS.

in

First Appeal No.333 of 1945.

District- Belgaum.

The Collector of Belgaum. ..... Appelant.

Versus.

Narayan Sadashiv Kulkarni. ..... Respondent.

Claim ; Rs.4078-1-5 forall purposes.

The Respondent above-named, begs to file Cross-Objections against the decree appealed from on the following among other grounds namely that :-

(1) The lower Court should have awarded compensation to the Respondent at the rate of Rs.2000/- per acre of Jirayat land.

(2) The oral and documentary evidence on the record has not been properly appreciated and constructed.

(3) It was an error to say that the prices of lands in 1921 were ones one-half times the normal.

(4) The Respondent should have been awarded compensation at least at the rate at which he made his purchase in 1921.

(5) It should have been held that the test of income would support the claim of the Respondent.

(6) The material provisions of the Land Acquisition Act I of 1894 have not been properly followed.

(7) The fact that the Respondent has lost the bulk of his lands which were the main source of his livelihood has been ignored.

(8) The lower Court has not properly appreciated that the Panchnamas produced at the time of award have not been duly proved, and that the Panchas, though cited as witnesses have not been examined.

(9) Interest should have been awarded from the date of possession at the rate of 6 per cent per annum.

(10) It was wrong not to have allowed the Plaintiff respondent his costs.

(11) The decision is against law, equity and the weight of evidence on the record.

B O M B A Y,
7th December 1945.

Advocate for the Respondent.

N.B. The learned Assistant Judge awarded Rs.6634-1-0 in respect of ~~land~~ one-half share land in Survey No.5 at the rate of Rs.1300/- per acre, and Rs.759-0-0 in respect of one-half share land in Survey No.6 at the rate of Rs.1200/- per acre, The Respondent claims compensation in respect of both Survey Nos. at the rate of Rs.2000/- per acre. Calculated on this basis, the additional compensation which the Respondent would be entitled to get would amount to Rs.4078-1-5. This includes the stationary 15 p.c.

Advocate for the Respondent.

328, 330 and 332 dated 26.1.1946.

Submitted with reference to R.L.A's No. 5103, dated 11.7.1945 to the G.P. High Court, Bombay, directing him to file appeals in the High Court, Bombay, against the decision of the Assistant Judge, Belgaum, dated 28.3.1945 in L.A.Q. Suit Nos. 4 to 13 of 1944 in the Court of the Assistant Judge, Belgaum. Formal sanction to the institution of the said appeals was given by L.D. G.R. No. 5677, dated 1.8.1945.

P.57 of L.A.Q.Bel/45 (Below)

2. Now, the G.P. High Court has forwarded to this office copies of cross-objections filed on behalf of the Respondents in First Appeals Nos. 337 of 1945 (Suit No. 7 of 1944), 330 of 1945 (Suit No. 10 of 1944) and 333 of 1945 (Suit No.5 of 1944) and requested that instructions for opposing the said cross-objections, if any, may be communicated to him. In the absence of the copy of the judgment of the Assistant Judge, Belgaum and a copy of the Memo. of Appeal filed inthe High Court, it is not possible to issue any helpful instructions to the G.P. High Court for opposing the cross-objection Under the circumstances, the G.P. High Court may be instructed as in R.L.A.'s No. 9657, dated 27.12.1945 to oppose the cross-objections in the Appeals in question, on such grounds as may be communicated to him by the Collector of Belgaum.

31/1/46

A.L.R. R.R. 1/2

R.L.A. Pune 9/2/46

LETTER.

No. 1159

Office of the
Remembrancer of Legal Affairs,
Bombay Castle, 11th February 1946.

To

The Government Pleader,
High Court, BOMBAY.

Subject:- First Appeals Nos.337 of 1945, 330 of 1945 and 339 of 1945.

With reference to your endorsements Nos.328, 330 and 332, dated the 25th January 1946, on the above subject, I have the honour to request you to oppose the cross-objections on such grounds as may be communicated to you by the Collector of Belgaum.

for Remembrancer of Legal Affairs.

MRP.

Issued
11/2/46

881 dated 31.1.1946. 19

Submitted.

2. One Mr. Dattatraya Ramachandra Kulkarni Saundalgaokar of Bhata-Gali, Kagal (via Kolhapur) has requested the R.L.A. to send him a copy of the written statement given by the tenant Vishnu Daji Patkar in Marathi at Saundalga, before the Prant Officer, N.D. Belgaum on 14.3.1942 in L.A.S.R. No. 83, because he wants to produce it in a civil suit at Chikodi. He had applied for the same to the Collector of Belgaum but the Collector has informed him that the correspondence of the Land Acquisition has been sent to this office under his No. L.A.Q. 713, dated 4.7.1945. It will appear from R.L.A's No. 5103, dated 11.7.1945 that the papers received from the Collector of Belgaum along with his letter No. L.A.Q.713, dated 4.7.1945 have been sent by this office to the G.P. High Court, Bombay in connection with the filing of appeal in the High Court, Bombay, in L.A.Q. Suit Nos. 4 to 13 of 1944 in the Court of the Assistant Judge, Belgaum. The further papers received from the Collector of Belgaum in connection with the same, have also been sent to the G.P. High Court under R.L.A's No. 5395, dated 21.7.1945. If approved, the receipt of Mr. D.R.Kulkarni's letter may be acknowledged and he may be informed that his letter has been forwarded to the Collector of Belgaum for necessary action. The requisite letter to him and endorsement to the Collector of Belgaum are put up for approval and signature.

B.S.P.
12/2/46

A.L.R. Papers are not with the Collr. What the use of sending this to the Collr.?
12.2.

Office P.T.O.

Re-submitted.

2. It is proposed to send this to the Collector of Belgaum because the applicant had originally applied to the Collector for giving the copy of the statement required by him. He has now written to the R.L.A. because he has been informed by the Collector that the papers have been sent to this office. The papers are with the G.P. High Court, Bombay. We do not know in what civil suit and for what purpose he wants to produce the statement required by him. We should therefore leave it to the Collector to decide whether the copy of the statement required by the applicant should be supplied and if he is of the opinion that it should be supplied, he would get it from the G.P. High Court, Bombay.

13/7/46

A.K.R. 14/7

No. 1017

Office of the
Government Pleader, High Court, A.S.,
B o m b a y, 14th March 1946.

From

S.G.Patwardhan, Esquire, B.A.B.Sc.LL.M.,
Government Pleader, High Court.

To

The Collector of Belgaum.

Re:- F.A.328 of 1945.

Sir

In connection with the above matter I have the honour to forward herewith a copy of the cross-objections filed on behalf of the Respondent in the above appeal and to request you to let me know at an early date the grounds on which they should be opposed.

Your obedient servant,
Sd. S.G.Patwardhan,
Government Pleader, High Court.

THE SECRETARY TO GOVERNMENT
LEGAL DEPARTMENT
File No.
No. 1019
Sub No. R319
Dated A/16-3-46

B o m b a y, 14th March 1946.

Copy with a copy of cross-objections forwarded with compliments to the Remembrancer of Legal Affairs, Bombay, with a request that instructions for opposing the said cross-objections, if any, may be communicated to the undersigned.

Government Pleader, High Court.

L D. 16 MAR 1946

27

IN HIS MAJESTY'S HIGH COURT OF JUDICATURE AT BOMBAY.

CROSS-OBJECTIONS.

IN

First Appeal No.328 of 1946.

District- BELGAUM.

The Collector of Belgaum. ... . Appellant.

Vs.

MARUTI RAMA MAGDUM ... ... RESPONDENT.

Claim: Rs.2255--0--0 for all purposes.

The Respondent above-named, begs to file Cross-Objections against the decree appealed from on the following among other grounds namely that:-

(1) The lower Court should have awarded compensation to the Respondent at the rate of Rs.2500/- per Acre of Bagayat land.

(2) It is an error to hold that there is only a difference of Rs.200/- per Acre in the price of Bagayat and Jiryat lands.

(3) The oral and documentary evidence on the record has not been properly approciated and construed.

(4) It should have been held that the test of income would support the claim of the Respondent.

(5) The fact that the Respondent had lost the bulk of his Bagayat lands which was the main source of his livelihood has been ignored.

(6) The Respondent alone should have been awarded compensation in respect of the well in S.No.7 at the rate of Rs. 600/- and the surrounding land. It was wrong to hol that the Respondent had failed to establish his exclusive title to the well.

(7) The lower Court has not properly appreciated t fact that the panchnamas produced at the time of the award have not been duly proved, and that the Panchas, though cited as witnesses, have not been examined.

(8) Interest should have been awarded from the date of the possession at the rate of 6 per cent.

(9) It was wrong not to have allowed the Respondent his costs in the suit.

(10) ~~xxxxxx~~ The material provisions of the Land Acquisition Act I of 1894 have not been properly followed.

(11) The decision is against law, equity and the weight of evidence on the record.

Bombay,
8th January 1946.) Sd.
Advocate for the Respondent.

N.B.-- The learned Assistant Judge awarded Rs.3363-12-0 in respect of S.No.7/2 at the rate of Rs.1500/- per acre. The Respondent claims compensation in respect of the said S.No.at the rate of Rs.2500/- per acre. Calculated on this basis the additional compensation which the Respondent would be entitled to get would amount to Rs.2242-8-0 ~~xxxx~~ including 15 %. He also claims Rs.12-8-0 as additional compensation in respect of the well as per valuation in the award. The claim in the Cross-Objections would, therefore be Rs.2255-0-0-.

Sd.
Advocate for the Respondent.

No. 1139

Office of the
Government Pleader, High Court, A.S.,
B o m b a y, 26th March 1946.

From

S.G.Patwardhan, Esquire, B.A.B.Sc.LL.M.,
Government Pleader, High Court.

To

The Collector of Belgaum.

Re: F.A. 334/45.

Sir

In connection with the above matter I have the honour to forward herewith a copy of the cross-objections filed on behalf of the Respondents in the above appeal and to request you to let me know at an early date the grounds on which they should be opposed.

Your Obedient Servant,
Sd. S.G.Patwardhan,

Government Pleader, High Court.

Fr. No. 2608
Sub No. 27-3-46
No. 1140

Copy with a copy of cross-objections forwarded with compliments to the Remembrancer of Legal Affairs, Bombay, with a request that instructions for opposing the said cross-objections, if any, may be communicated to the undersigned.

Government Pleader, High Court.

2608

27-3-46

Submitted with 1ps (p4) in Lag Bel (45-)

Bond
28-3.

S.S

25

IN HIS MAJESTY'S HIGH COURT OF JUDICATURE AT BOMBAY.

CROSS-~~O~~-OBJECTIONS.
in
FIRST APPEAL No. 334/45.

District Belgaum.

The Collector of Belgaum. ... ... Appellant.

Vs.

1. Bapu
2. Appa
3. Lahu,
4. Ankush

} Jamu Patil - minors by their guardian mother Yesubai Kom Jamu Patil of Soundalge. Respondents (Heirs of deceased Respdt.No.1)

Claim Rs.

Herein the Respondents beg to put in the following cross-objections to the decree now under appeal:-

1) That the lower Court ought to have held that the proper rate of compensation in respectof the Bagayat Land S.No. 7 was at least Rs.2800/- per acre as claimed by the plaintiff.

2). That the finding of the lower Court on issue No.4 is wrong.

3) That the lower Court ought to have accepted and relied upon the evidence adduced by plaintiff in support of his case that the value of the land at the material time was not less than Rs.2800/- per acre.

4) That the lower Court ought to have seen that even in 1941 the prices of the lands had risen very high.

5) That the lower Court has not properly appreciated the documentary evidence on record.

6) That the lower Court has not drawn proper inferences from the facts proved in the case.

7) That the learned Judge erred in holding that the

proper rate in 1941 for Bagayat land was only Rs.1500/-.

8) That the lower Court ought to have seen that the rates which prevented in 1941 were double of what they in 1898.

9) That the lower Court ought to have taken the prices of the lands obtaining in 1921 or the basis for the ascertainment of the present rates.

10) That under the circumstances of the present case the amount awarded to plaintiff is low.

B o m b a y,
D/23-8-1946.

Sd. K. G. Datar.
Advocate for the Respondents.

ante. 29 p.5 ante 11

2319 dated 16.3.46 and 2608 dated 27.3.46.

Submitted with reference to the endorsements of the Govt. Pleader, High Court, Bombay, No. 1018, dated 14th March 1946 (p. 1 ante) and No. 1140, dated 26.3.1946 at p. 5 ante.

2. Sanction for the institution of an appeal by Govt. in the High Court, Bombay, under section 54 of the Land Acquisition Act, 1894 (I of 1894) against the decision of the Assistant Judge, Belgaum, dated the 28th March 1945, in L.A.Q. suits Nos. 4 to 13 of 1944 in the Court of the Assistant Judge, Belgaum, was accorded by L.D. G.R. No.5677, dated 1.8.1945, on the grounds contained in the award of the Acquiring Officer and the letter of the D.G.P. Belgaum No. L.A.Q. suit Nos. 4 to 13 of 1944 dated 5.5.1945. Attention is invited to A.L.R's note dated 5.7.1945 underlying the said L.D. G.R. at p. 31 of L.A.Q. Bel/45 below, in which he was not quite sure that the Assistant Judge's award was so very excessive as to make an appeal worthwhile. In view of the administrative departments' desire to file an appeal, sanction to the institution of First Appeal No. 328 of 1945 and No. 334 of 1945 was accorded.

P.57 of L.A.Q. Bel/45 (Below)

P. 1 ante.

P. 5 ante.

3. Now, the G.P. High Court, Bombay, has sent copies of cross-objections filed on behalf of the respondents in the said F.A. No. 328 of 1945 at p. 3 ante and in No. 334 of 1945 at p. 7 ante, and has requested this office that instructions for opposing the said cross-objections, if any, may be communicated to him. In the absence of the copy of the judgment of the Assistant Judge, Belgaum, and copies of Memos of both the Appeals filed in the High Court, it is not possible to issue any helpful instructions to the G.P. High Court for opposing the cross-objections. Under the circumstances, G.P. High Court, Bombay, may be instructed to oppose the cross-objections in both the appeals on such grounds, if any, as may

be communicated to him by the Collector of Belgaum. The requisite letter to the G.P. High Court, Bombay, is put up for apprval and signature (cf. R.L.A's No.9657, dated 27.12.1945).

P.89 of L.A.Q.Bel/45 (Below).

NWP 1/4/46

A.A.L.R DR 1/4

R.L.A. 4/4/46

Letter.

No. 2599

Office of the
Remembrancer of Legal Affairs.
Bombay Castle, 5th April 1946.

To

The Government Pleader,
High Court, Bombay.

Subject:- First Appeals Nos. 328 and 334 of 1945 in Land Acquisition, Belgaum.

With reference to your endorsements No. 1018, dated the 14th March 1946 and No. 1140, dated the 26th March 1946, on the above subject, I have the honour to request you to oppose the cross-objections filed on behalf of the Respondents in First Appeal No. 328 of 1945 and First Appeal No. 334 of 1945, on such grounds as may be communicated to you by the Collector of Belgaum.

Issued
4/4
31/4/46.

for Remembrancer of Legal Affairs.

Laq Bel 45 — 33

No. 1507

Office of the
Government Pleader, High Court, A.S.,
B o m b a y, 24th April 1946.

From

S.G.Patwardhan, Esquire, B.A.B.Sc.LL.M.,
Government Pleader, High Court.

To

The Collector of Belgaum.

Subject:- First Appeal No.332/45 in Suit No.4/44. (Collector of Belgaum Vs. A.B.Mithare).

Sir

With reference to your letter No.L.A.Q.713 dated the 15th April 1946, on the above subject, I have the honour to st that inquiries as to whether the party against whom the appeal is to be preferred is alive or not should have been made when the appeal was proposed to be filed. Recently in a group of First Appeals from Kaira District the High Court did not excuse the delay in filing civil applications for bringing heirs on record on the ground that the First Appeals had been filed against a dead person. Similar is the position in this case. Unless therefore there is an affidavit giving substantially strong reasons for delay it is not likely that the same will be excused. I have therefore to request you to send an affidavit as requested in this office No. 28 dated the 9th January 1946 as early as possible.

Your obedient servant,

Sd. S.G.Patwardhan,

Government Pleader, High Court.

No. 1507 B o m b a y, 24th April 1946.

Copy with a copy of the Collector's letter forwarded with compliments to the Remembrancer of Legal Affairs, Bombay for information and necessary action. This has reference to Government Resolution, Legal Department, No.5677 dated the 1st August 1945.

L. D. 4 APR 1946

Government Pleader, High Court.

3588
25-4-46

35
354

To

The Government Pleader,High Court,Bombay.

No.L.A.Q.-713. Belgaum,15th April 1946.

Ref. Your No.1005 dated 14-3-46 and subsequent two reminders dated 27/3/46 and 8/4/46 reg.F.A.332/1945.

A copy of the District Government Pleader;s reply in the matter is enclosed herewith. In the circumstances stated by him the High Court may be moved to condone the delay in applying to the High Court to bring heirs of the deceased respondent on record.

Sd. ...

Collector of Belgaum.

No.L.A.Q.Suits 4 to 13/44
Belgaum,12-4-46.

R.W.C.s.

1. Mr.A.B.Mithare (since dead) was plff. in suit No. 4 of 1944 and as such no responsibility lay upon the Collr.(the present appellant) to bring his heirs on record. The matter came prominantly to the notice of the Collr.after the appeal was preferred and inquiries made in the due course about the respondent being alive or dead. Thus no occasion arose before this for making an affidavit in that connection. As the papers and the record are not available here I cannot say anything more.

Sd. V.A. Mujumdar,
B.G.P.Belgaum.

vide ante

R.I.No.3588, dated 25-4-1946.

Submitted with reference to the endorsement of the Government Pleader, High Court, No.1502 dated 24-4-1946 at p.1 ante.

2. By L.D. G.R. No.5677 dated 1-8-1945 at p.57 of L.A.Q.Bel/45, sanction was accorded to the institution of appeals in the High Court, Bombay, against the decision of the Assistant Judge, Belgaum, dated 28-3-1945, in inter alia L.A. Suit No.4 of 1944. From the D.G.P. Belgaum's endorsement dated 12-4-1946 at p.3, it appears that Mr.A.B.Mithare was plaintiff in L.A.Suit No.4 of 1944. After First Appeal No.332/45 in the said suit was preferred and inquiries were made in due course, about the respondent being alive or dead, it is found that respondent Mr.A.B.Mithare is dead. The G.P.,High Court, Bombay, has requested the Collector of Belgaum to send an affidavit, giving substantially strong reasons for delay, as early as possible, because recently in a group of F.A.* from Kaira District, the High Court did not excuse the delay in filing civil applications for bringing heirs on record, on the ground that the F.A. had been filed against a dead person. He has sent a copy of the said communication for his information & necessary action. The action proposed to be taken by the G.P.,High Court,Bombay, is in order, and the Collector of Belgaum may be asked to comply with it. The requisite draft letter to the Collector of Belgaum is put up for approval and signature. A copy of the same may be sent to the Govt. Pleader,High Court, Bombay, also for his information.

*p.3 of the loose papers slipped A below.

ADP 30/4/46

A.A.L.A. R.L.A. 1/5

R.L.A. 1/5/46

No. 656

Office of the
Government Pleader, High Court,
Bombay, 4th February 1949.

From

M.M.Chokni, Esqr., B.A.(Hons.)LL.B.,
Government Pleader, High Court, Bombay.

The Collector of Belgaum.

Sub: First Appeal No.330/45.
in L.A.Suit No.10/44.
Ganpat Govind Bawdekar.

Sir,

With reference to your endorsement No.L.A.W.4679 dated 27th to [illegible] on the above subject, reporting me that the Respondent [illegible] I have the honour to state that an applica- [illegible] to be made in the High Court. I have therefore to request you to send an affidavit stating therein the exact date of death and [illegible] and occupation of the heirs and their - [illegible] to the deceased and also the name of the guardian of the [illegible] if any. The affidavit should also state that the interest of the [illegible] is not adverse to that of the minor. I request you therefore to take prompt action in the matter and send me an affidavit with three copies thereof as early as possible.

An additional affidavit containing grounds for excusing delay in filing the Civil Application to bring the heris of the Respondent on record may also be sent with three copies.

I may further point out for your information that the monthly list of October 1948 returned to me under your endorsement No.L.A.W. 4547 dated 19th November 1948 shows that the Respondent was alive, but the monthly list of November 1948 returned to me under your endorsement No.L.A.W. 4679 dated 27the January 1949 shows that the Respondent as having died on 10th October 1948. If the Respondent was dead on - 10th October 1948 this fact should have been mentioned in the monthly Return sent by you on 19th November 1948, i.e. more than a month after his death.

Yours faithfully,

Sd/- B.G.Thakor,
for Government Pleader, High Court.

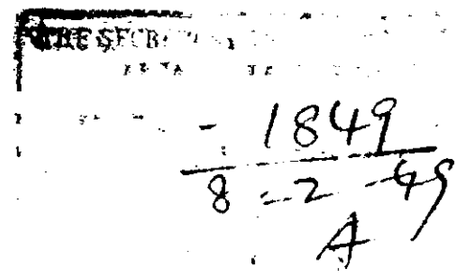
P.T.O.

No. 657

Bombay, 4th February 1948

Copy forwarded with compliments to the Remembrancer of legal affairs, Bombay for information.

B S Shahani
for Government Pleader, High Court.



41 45/51

No. 1660

Office of the
Remembrancer of Legal Affairs,
Bombay Castle, February 1949.
11th

To

The Collector of Belgaum.

Subject:- First Appeal No. 330/45.
in L.A. Suit No. 10/44.
Ganpat Govind Bawdekar.

Sir,

With reference to the letter from the Government Pleader, High Court, Bombay No. 656, dated the 4th February 1949, addressed to you on the above subject, I have the honour to request you to forward to the Government Pleader, High Court, the affidavits called for by him in the above letter at an early date.

Yours faithfully,

for Remembrancer of Legal Affairs.

B&M.
11.2.
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